

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Assessment and Collection)
) MD Docket No. 06-68
of Regulatory Fees for)
)
Fiscal Year 2006)

To: The Commission

COMMENTS OF KENNETH J. BROWN

I am a private individual, a semi-retired Broadcast Engineer, now available as a consultant. Until my retirement, I was the individual with primary responsibility for the preparation of the annual regulatory fee filing for a major licensee from the beginning of the fee collection program in 1994, and I have continued to prepare regulatory fee filings for clients since my retirement, so I may be presumed to have a little knowledge of the topic. I present here some thoughts as my individual comments in this proceeding. These opinions are my own and may not be taken as reflective of any thoughts of my former employer or any client.

I see that the NPRM (FCC 06-38, released 3/27/06) at par. 17 proposes to expand billing or assessing initiatives to new service categories, including Earth Stations. I find it hard to imagine that anything you might do could screw this up any worse. I commented two years ago, in April of 2004, that it would be really nice if you stopped sending licensees of

recently-granted earth stations past-due bills for regulatory fees for earth station licenses which had not yet been granted as of the effective date for regulatory fees. This past year, I saw a flurry of bills for past-due regulatory fees for earth stations which had not been granted as of October 1, 2004, despite the language at paragraph 46e of the 2005 regulatory fees Order, FCC 05-137. Worse, since the implementation of the red light program, such licensees are red lighted for non-payment of fees and, despite proper responses to past-due letters made months ago, I have reason to believe at least some of them still remain red lighted.

I take particular note of the language in the current NPRM at paragraph 36e: "...regulatory fees must be paid for stations that were licensed and operational on or before October 1, 2005." This is more explicit than the language in last year's Order, but no more explicit than language I recall from orders of the past. Yet there were bills issued in February of 2006 for past-due regulatory fees for earth stations which, simply by reference to the file number of the initial application, had not even been applied for as of October 1, 2004!

Something is seriously wrong. Is this a persistent error, or possibly something more? If an error, whose? Is the Commission using language it does not mean? Am I mis-interpreting what I read to this severe an extent? Or is something else happening? Seriously, if I am missing the point this badly, I would appreciate someone putting me out of their misery.

A similar issue exists with respect to requests for refund. In preparing a 2003 regulatory fee filing, I made an initial error. By the time I had caught the error, the client had already cut the check. Since the error caused the check to be too big rather than too small, the client chose not to re-cut the check, expecting that a refund of the overpayment could be easily obtained, particularly since the actual Fee Filer submission and Form 159 showed the correct amount. Allowing what I thought would be enough time for the Commission to deal

with the mass of payments, a request for refund was filed, according to procedures I was given by Commission staff, in May of 2004. Despite several attempts to follow up, no official response of any kind has yet been received. Indeed, I understand that the "responsible" staffer has since retired, so I no longer have an official to contact and I rather suspect any institutional memory of the refund request has been lost.

Through private contact with a knowledgeable individual, I received the curious response that fees filed electronically with Fee Filer had to be "taken apart" for analysis, that this had not been done, and that refunds could not be issued until this had been done. Because this individual has very high credibility with me, I believe it. But that means that the Commission may still not know that certain fees were or were not paid, and postpones any refunds for overpayment into the unforeseeable future. Is this a form of punishment imposed on those who heeded the Commission's requests to move to electronic filing as early as possible? And, are there any ramifications with respect to current electronic filers, especially as the Commission seeks to make use of the Fee Filer mandatory for large filers in future years (NPRM par. 11)? Briefly, what is it necessary to do to obtain refunds for overpayments of fees filed electronically in the 2002-2003, or the current, time frame?

These comments are offered with the sole intent of helping, if possible, to improve the fee collection process.

Respectfully submitted,
Kenneth J. Brown

April 14, 2006